

**立法會**  
***Legislative Council***

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Tel : 3919 3306

Date : 15 January 2015

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

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**Council meeting of 21 January 2015**

**Mandatory Provident Fund Schemes (Amendment) Bill 2014**

**Committee stage amendments**

The Second Reading debate on the above Bill will be resumed at the Council meeting of 21 January 2015. Subject to the Bill receiving Second Reading, the President has given permission for the Secretary for Financial Services and the Treasury to move proposed amendments to the Bill at its Committee stage.

2. As directed by the President, the proposed amendments are attached for Members' consideration.

(Boris LAM)  
for Clerk to the Legislative Council

Encl.

Mandatory Provident Fund Schemes (Amendment) Bill 2014

**Committee Stage**

Amendments to be moved by the Secretary for Financial Services and the Treasury

<u>Clause</u>	<u>Amendment Proposed</u>
7	<p>(a) In the proposed section 21BB(6), by deleting “the scheme members’ interests” and substituting “scheme members’ interests”.</p> <p>(b) In the proposed section 21BB(8)(b), in the Chinese text, by deleting “加入” and substituting “包括”.</p>
11	<p>In the proposed section 42AAB, by adding—</p> <p>“(1A) The Authority may give consent only if—</p> <p>(a) the information is to be disclosed to a person located in a place outside Hong Kong;</p> <p>(b) the person exercises or performs in that place functions that correspond to those of the Commissioner of Inland Revenue; and</p> <p>(c) the Authority is satisfied that the disclosure will enable or assist the person to exercise or perform the person’s official functions.”.</p>
22(2)	<p>In the proposed section 31(4), by deleting “beginning on” and substituting “after”.</p>
25	<p>(a) In the proposed section 35B(2), by deleting everything after “if” and substituting—</p> <p>“—</p> <p>(a) the instructions are given in a form specified or approved by the Authority; and</p>

- (b) 30 days have passed since the member gave those instructions to the approved trustee.”.
- (b) In the proposed section 35B(3), by deleting “12” and substituting “4”.

New

By adding—

**“26A. Section 42AA added**

Part 4, after section 42—

**Add**

**“42AA. Transitional provisions for Part 4—Mandatory Provident Fund Schemes (Amendment) Ordinance 2014**

(1) Section 31(4) applies in relation to an application for membership of, or participation in, a registered scheme with a relevant date that is before the commencement date if, on the commencement date—

- (a) the period of 30 days from the relevant date has yet to expire; and
- (b) the applicant has not been given a notice of acceptance under section 31(4) of the pre-amended Regulation.

(2) In this section—

***commencement date*** (生效日期) means the date on which section 22 of the Mandatory Provident Fund Schemes (Amendment) Ordinance 2014 ( of 2014) comes into operation;

***pre-amended Regulation*** (《未修訂規例》) means this Regulation as in force immediately before the commencement date;

***relevant date*** (有關日期), in relation to an application for membership of, or participation in, a registered scheme, means whichever is the later of the following dates—

- (a) the date on which all the information required for the application is submitted;

- (b) the date on which the applicant agrees to observe and accept the governing rules of the scheme.”.”.

New

By adding—

**“27A. Section 67A added**

Part 5, after section 67—

**Add**

**“67A. Transitional provisions for Part 5—Mandatory Provident Fund Schemes (Amendment) Ordinance 2014**

- (1) Subsection (2) applies if—
- (a) a relevant employee of a participating employer becomes a member of a registered scheme before the commencement date; and
  - (b) on the commencement date—
    - (i) the period of 60 days after the employee becomes such a member has yet to expire; and
    - (ii) the employee has not been given a membership certificate under section 55 of the pre-amended Regulation.
- (2) The employee must be given a notice of participation that complies with section 31(4A) within the 60-day period.
- (3) Subsection (2) does not apply in relation to a casual employee who is a member of an industry scheme.
- (4) In this section—

***commencement date*** (生效日期) means the date on which section 27 of the Mandatory Provident Fund Schemes (Amendment) Ordinance 2014 ( of 2014) comes into operation;

***pre-amended Regulation*** (《未修訂規例》) means

this Regulation as in force immediately before the commencement date.”.”.

49(2) In the proposed item 11B, in the Chinese text, by deleting “核准受託人須遵守就”.

51 By adding before subclause (1)—

“(1A) Schedule 2, section 1(1), definition of *final average monthly relevant income*, paragraph (a), after “immediately preceding”—

**Add**

“the earliest of the following”.

(1B) Schedule 2, section 1(1), definition of *final average monthly relevant income*, paragraph (a)(iii), after “withdrawal;”—

**Add**

“or”.

(1C) Schedule 2, section 1(1), definition of *final average monthly relevant income*, after paragraph (a)(iii)—

**Add**

“(iv) the date on which the trustee of the scheme receives the latest claim lodged by the member under section 6(9A) for which benefits have not been paid;”.

(1D) Schedule 2, section 1(1), definition of *final average monthly relevant income*, paragraph (b), after “whichever is the later, to”—

**Add**

“the earliest of the following”.

(1E) Schedule 2, section 1(1), definition of *final average monthly relevant income*, paragraph (b)(iii), after “withdrawal;”—

**Add**

“or”.

(1F) Schedule 2, section 1(1), definition of *final average*

*monthly relevant income*, after paragraph (b)(iii)—

**Add**

“(iv) the date on which the trustee of the scheme receives the latest claim lodged by the member under section 6(9A) for which benefits have not been paid;”.

(1G) Schedule 2, section 1(1), definition of *minimum MPF benefits*, paragraph (a), after “accrued”—

**Add**

“and held”.

(1H) Schedule 2, section 1(1), definition of *years of post-MPF service*—

**Repeal**

“or the relevant date, whichever is the later, to”

**Substitute**

“, the relevant date or (if the member was previously paid any benefits under section 6(9A)) the date on which the trustee of the scheme received the claim lodged by the member for which benefits were last paid under that section, whichever is the latest, to the earliest of the following”.

(1I) Schedule 2, section 1(1), definition of *years of post-MPF service*, paragraph (c)—

**Repeal**

“withdrawal.”

**Substitute**

“withdrawal; or”.

(1J) Schedule 2, section 1(1), definition of *years of post-MPF service*, after paragraph (c)—

**Add**

“(d) the date on which the trustee of the scheme receives the latest claim lodged by the member under section 6(9A) for which benefits have not been paid.”.

(1K) Schedule 2, section 1(2), after “accrued”—

**Add**

“and held”.

(1L) Schedule 2, section 2(2)(i), after “accrued”—

**Add**

“and held”.”.

55

(a) In the proposed section 78A, by adding—

“(1A) The Registrar may give consent only if—

- (a) the information is to be disclosed to a person located in a place outside Hong Kong;
- (b) the person exercises or performs in that place functions that correspond to those of the Commissioner of Inland Revenue; and
- (c) the Registrar is satisfied that the disclosure will enable or assist the person to exercise or perform the person’s official functions.”.

(b) By deleting the proposed section 78A(3).

New

By adding—

## **“Part 8**

### **Transitional and Savings**

#### **58. Transitional and savings**

- (1) If the date on which a person begins employment with an employer falls before the commencement date, the following provisions apply in relation to that employment—
  - (a) section 7AA of the Mandatory Provident Fund Schemes Ordinance (Cap. 485) as in force immediately before the commencement date;
  - (b) section 122 of the pre-amended Regulation;
  - (c) section 1 of the pre-amended Notice.
- (2) If the date on which a person becomes self-employed falls before the commencement date, section 2 of the pre-amended Notice applies in

relation to that self-employment.

- (3) If—
- (a) the last day of the period prescribed in section 131 of the pre-amended Regulation in relation to a self-employed person falls on or after the commencement date; and
  - (b) that last day is a day specified in subsection (4),

the next following day that is not a day so specified is the contribution day for the self-employed person.

- (4) The day specified for subsection (3) is—
- (a) a Saturday;
  - (b) a public holiday; or
  - (c) a gale warning day or black rainstorm warning day as defined by section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1).

- (5) In this section—

***commencement date*** (生效日期) means the date on which section 4 of the Mandatory Provident Fund Schemes (Amendment) Ordinance 2014 ( of 2014) comes into operation;

***pre-amended Notice*** (《未修訂公告》) means the Mandatory Provident Fund Schemes (Specification of Permitted Periods) Notice (Cap. 485 sub. leg. F) as in force immediately before the commencement date;

***pre-amended Regulation*** (《未修訂規例》) means the Mandatory Provident Fund Schemes (General) Regulation (Cap. 485 sub. leg. A) as in force immediately before the commencement date.”